

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DARYL TOEWS**, on January 20, 1997, at 1:02 p.m., in Room 402.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. Delwyn Gage (R)
Sen. John R. Hertel (R)
Sen. Loren Jenkins (R)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: Sen. Steve Doherty (D), Sen. Bill Glaser (R),
Sen. Mike Sprague (R)

Members Absent: None.

Staff Present: Eddye McClure, Legislative Services Division
Janice Soft, Committee Secretary

Committee Business Summary:

HEARING(S) & DATE(S) POSTED: SB 133, SB 95; POSTED 01/13/97
Executive Action: None.

HEARING ON SB 133

Sponsor: SEN. CHARLES "CHUCK" SWYSGOOD, SD 17, Dillon

Proponents: Richard Crofts, Commissioner of Higher Education
Sheila Sterns, Chancellor, U of M - Dillon
Buddy Malee, Montana Federation of Teachers
Erik Hanson, Governor's Office
Jeremy Fritz, MSU-Billings
Eric Feaver, Montana Education Association
Wayne Buchanan, Board of Public Education

Opponents: None.

Opening Statement by Sponsor:

SEN. CHARLES "CHUCK" SWYSGOOD, SD 17, Dillon, said the purpose of SB 133 was to continue the levy of six mills to support the University System, something which was done every ten years.

Proponents' Testimony:

Richard Crofts, Commissioner of Higher Education, expressed support for SB 133, explaining the public had voted on this issue every ten years since 1920, and had always passed the measure. He reviewed the history and shared a note from 1968 -- the levy was to provide about 16% of the operating expense of the Montana University System. However, today the figure has dropped to about 6.5% of the operating revenue, with the balance made up by general fund and tuition dollars. **Mr. Crofts** said in the current biennium, the actual six mill levy for FY '96 and the budgeted six mill levy for FY '97 totaled \$27,929,000. He stated the University System was funded by the state, based on a per-student rate of about \$4,040, and if the \$27,929,000 was divided by \$4,040, the result (if the mill levy did not pass) would be the educating of about 3,500 fewer students. He said the System was looking forward to presenting the six mill levy issue to the public because the System believed it was responsive to the public regarding what it wanted from the University System, and the System has been working on the changes suggested by the legislature.

Sheila Sterns, Chancellor, U of M - Dillon, expressed support for SB 133 and thanked **SEN. SWYSGOOD** for carrying the bill. She said SB 133 provided a 10-year opportunity for conversation regarding the purpose and value of higher education in Montana. She said her in-law, Hal Sterns, worked hard on the 1968, 1978 and 1988 campaigns for the six-mill levy, so it was fitting she was before the Committee supporting SB 133. **Ms. Sterns** said she was a college student in 1968, a time when college students were known to be unruly; Montana supported the levy even at a very controversial time. She expressed appreciation for the Committee's support of SB 133.

Buddy Malee, Montana Federation of Teachers (MFT), expressed support for SB 133.

Erik Hanson, Governor's Office, said the Governor believed SB 133 was a fundamental issue in Montana because the public needed to be approached about higher education. He stated the six mill levy was a large funding component for higher ed and the public was entitled to have a say about it. He expressed appreciation for the Committee's support in passing SB 133.

Jeremy Fritz, MSU-Bozeman, said he was speaking on behalf of the 11,600 students attending MSU-Bozeman. He said the six mill levy was important to the higher education funding for students. He informed the Committee students were graduating with a higher

amount of debt than ever before and the cost of education was higher than ever before. **Mr. Fritz** reminded the Committee if the six mill levy did not pass, student costs would be much higher, which could result in fewer graduates and fewer people in the work force. He asked support for SB 133.

Eric Feaver, Montana Education Association (MEA), urged the Committee's full support of SB 133.

Wayne Buchanan, Board of Public Education, expressed support for SB 133, especially because it brought the question of funding for higher education before the people.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 1:14 p.m.}

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if the property reappraisal would raise the 6.5%. **Richard Crofts** said no calculations had been done regarding the impact; however, he assumed if projections were for some huge windfall out of the six mill levy, it would be taken into account in the General Fund appropriations to the System. He stated the Governor's projected budget included calculations which raised the \$27 million to about \$33 million from the six mill levy.

SEN. EMERSON said when the new appraisal came out in Bozeman, there was general discussion saying the extra dollars would not be spent, but would adjust the mill levy downward. He wondered if the University System had considered doing that also, should the same situation occur. **Mr. Crofts** reiterated no calculations on the revenue generated by the six mill levy had been done except for the Governor's budget. He said HB 2 in the 1995 session said if the levy generated more revenue than was projected in the budget, the excess would be reverted to the state and if it was less, the System could come in for a supplemental budget.

SEN. DELWYN GAGE commented a tax reform proposal was coming which would require the vote of the people. He said that Constitutional Amendment, if passed by the legislature, would be on the ballot at the same time as the six mill levy. He wondered what would happen if both passed. **Mr. Crofts** answered someone else would be a good person to ask that question.

Closing by Sponsor:

SEN. CHARLES "CHUCK" SWYSGOOD thanked both the Committee for the hearing and those who came to support SB 133. He gave an informational background on the history of the levy. The first time it was voted on by the people was in 1914 and it was rejected by a 38.3% vote. However, in 1920, the levy was

approved by a 53% vote. He reminded the Committee the law said "up to six mills" but it had to be voted on by the people. He asked for favorable consideration of SB 133.

{Tape: 1; Side: A; Approx. Time Count: 1:21 p.m.}

HEARING ON SB 95

Sponsor: SEN. MIKE HALLIGAN, SD 34, Missoula

Proponents: Robert Runkel, Office of Public Instruction
Bruce Moyer, Missoula County Public Schools
Mary Vagner, Missoula County Public Schools
Don Waldron, Montana Rural Education Association
Loran Frazier, School Administrators of Montana
Lance Melton, Montana School Boards Association
Linda Brannon, Montana Association of School
Business Officials

Opponents: None.

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, Missoula, said hearings by the Juvenile Justice and Mental Health Study Commission covered a wide spectrum; some testifiers indicated problems concerning youth who may be coming into the Juvenile Justice system to be placed in foster care or into a group home out of their district. He explained some of the youth were special ed and the system needed to be uncomplicated so the funds placed in the new school district could be used for the education of those youth in a more immediate sense. He stated OPI and others had helped draft SB 95 which would allow the excess funds to be placed in a fund other than the General Fund (miscellaneous fund) so the receiving school district could use the funds for special services or issues related to special education. SEN. HALLIGAN summarized SB 95 attempted to accomplish giving receiving districts greater latitude in using special ed tuition payments in excess of regular tuition.

Proponents' Testimony:

Robert Runkel, Office of Public Instruction (OPI), said SB 95 was developed at the request of the Juvenile Justice and Mental Health Study Commission because of the frustration public school districts had when receiving tuition from students who were very high cost because of meeting their educational needs. Mr. Runkel said current law required both regular and special education tuition monies to be deposited in the General Fund, which made the tuition revenue subject to district budget limitations. He explained even though a district received tuition funds, any expenses would have to be covered through expense reductions in other areas. He maintained SB 95 would help school districts afford the costs of non-resident students who required special

education services by allowing them to use the tuition received. **Mr. Runkel** further explained SB 95 would allow the receiving district to deposit the tuition monies collected for the special education portion of non-resident special education students into the miscellaneous fund. He stressed SB 95 concerned only non-resident students and the add-on tuition intended to cover the excess costs of providing special education services; it did not affect regular tuition or special education payments for students who were part of the standard tuition payments. **Mr. Runkel** informed the Committee special ed tuition included regular tuition plus the add-on rate to cover the additional services, and SB 95 allowed the district to deposit the add-on rate into the miscellaneous fund. He explained the district could use the additional tuition monies that year for the education services without limits imposed by the General Fund; however, the amount of tuition that was not the add-on was still required to be placed in the General Fund and was to be used to lower tax levies. He said the tuition caps for elementary (\$1,337) and high school (\$1,872) often were insufficient to meet the needs of students with disabilities, and sometimes the acceptance of these students was influenced by the fact there were added and significant costs. He summarized by saying SB 95 would help schools provide special ed services using tuition without having to cut general education services to make room under the current limits for general fund expenditures.

Bruce Moyer, Missoula County Public Schools, gave an illustration of **Robert Runkel's** testimony. He said a few years ago, Missoula County Public Schools received an out-of-district tuition high school student with extensive learning disabilities which required extensive assistance from the District. He said when the cost was totaled, it was around \$30,000; however, when his district received the tuition money the first year it was able to use the money to offset the cost of the student but when the monies were received the second year, only the increase from the preceding year was able to be spent. He said the difference between \$30,000 and \$1,872 went into the General Fund reserves; therefore, it did not help with the expense of educating that student. He said the expense had to be paid out of regular programming, which Missoula had done the past three years at a cost of about \$100,000 per year. He expressed support for SB 95.

Mary Vagner, Missoula County Public Schools, said her district was servicing more court-placed youth, either through the corrections institution or through DFS. She explained the court-placed youth were coming from across Montana but there was also an increase in the number of special needs students coming from about a 50-mile radius. **Ms. Vagner** stated SB 95 would allow her district to serve the special needs students as well as maintaining what was being provided for the regular students.

Don Waldron, Montana Rural Education Association (MREA), said when a special student with a high price tag was being educated

and the money received, school districts needed to be able to use the money that same year. Therefore, MREA supported SB 95.

Loran Frazier, School Administrators of Montana (SAM), said he had nothing to add to the previous testimonies and he expressed support for SB 95.

Lance Melton, Montana School Boards Association (MSBA), said SB 95 reflected strong support from all its membership because the bill provided needed flexibility in providing services to special needs children. He urged the Committee's support.

Linda Brannon, Montana Association of School Business Officials (MASBO), said MASBO supported SB 95 because it was logical and should have been enacted years ago.

Opponents' Testimony: None.

{Tape: 1; Side: A; Approx. Time Count: 1:33 p.m.}

Questions From Committee Members and Responses:

SEN. LOREN JENKINS wondered if SB 95 was an end run around the equalization factor in the school systems. **Joan Anderson, Office of Public Instruction (OPI)**, said the General Fund was limited in order to provide spending equalization; however, these limits did not provide for the extreme cases because it assumed a certain cost-per-pupil would be adequate to provide the general cost of education. **Ms. Anderson** explained many special ed services could be provided along with regular education which would not cause a problem with the General Fund, and schools were doing their best to provide those services. She noted the examples given in the testimony were extreme cases in the cost differentials between educating regular and special ed students. She stated she did not consider SB 95 an end run; rather, a stop gap to recognize the fact some children will never fit the normal costs of educating a student in Montana.

SEN. JENKINS asked if schools had no option but to accept these court-placed students. **Joan Anderson** said schools were required to accept the court-placed & DFS youth, as well as those students whose district of residence was too small to provide the needed services.

SEN. JENKINS asked what happened to the equalization factor when a certain school district had a higher placement (and therefore, higher budget) of special needs students than another district. **Joan Anderson** answered there was no impact on the equalization or way schools were currently funded because the receiving district of these students received the ANB money. She further explained the receiving district charged a tuition rate, the money from which went into the General Fund to help support the portion received from the taxpayers; however, if the student was not from the taxpayers' district, it was not fair for the taxpayers to

bear the expense of educating that student, and that was the reason for the tuition charge. **Ms. Anderson** also said the portion of the tuition charge which would be charged for any student without disabilities would still have to be deposited into the general fund of the district of residence.

SEN. JENKINS asked if special costs were factored into the equalization. **Joan Anderson** said OPI's Administrative Rules which addressed tuition rates set into rule regular tuition rates for both elementary and high school, as well as calculations which limited the add-on rates for special education. She explained considerations for total costs of educating the child were included in the add-on rate; however, a school district which was charging that tuition was required to lower the amount by the amount received from OPI in per-pupil and special education money.

SEN. CASEY EMERSON commented one of the problems in a special student being transferred in was getting the money from the General Fund to do the things the district needed to do and he wondered if there was a budgeting provision which already provided for such an emergency. **Joan Anderson** said the law already provided for a budget amendment; however, it would not grant as much flexibility as SB 95, because a budget amendment required much paperwork and a longer time limitation, while SB 95 provided the flexibility on an on-going annual basis.

SEN. DELWYN GAGE asked what things were funded from the miscellaneous programs fund. **Joan Anderson** said it was used for state, local and federal grants and local donations. She said schools were required to keep each project and its accounting and reporting separate.

SEN. GAGE stated he interpreted SB 95 as allowing the deposit of the excess tuition amounts into the miscellaneous programs fund, which meant property taxes would not have to be reduced. **Joan Anderson** said the property tax effect was there, but it was not the main intention of SB 95. She explained the main intention was when a large amount (\$30,000, for example) was received for the special needs of a student and put into the General Fund, the fund was capped because while the money was sitting there, the budget limitations would not allow its use. **Ms. Anderson** added that money would be used the following year for regular education in the General Fund.

SEN. EMERSON asked about the special needs child already residing in the district -- would it be possible for the General Fund money to be spent on regular students instead of spending so much on the special needs student. **Joan Anderson** said there was no mechanism to give flexibility in that case. She said school districts absorbed those costs into their General Fund, which sometimes results in cutting regular ed programs.

SEN. EMERSON asked if SB 95 should be amended to make that exemption. **Ms. Anderson** commented OPI had not thought about adding that to SB 95 because it was their intention to address students coming from other districts.

SEN. EMERSON maintained there would be more resident students with special needs than those who might be coming into a district.

SEN. JENKINS referred to the fiscal note which said "district property taxes plus state GTB costs will increase," and wondered why property taxes would increase. **Joan Anderson** explained under current law all regular ed tuition plus the special ed add-on was mandated to be placed into the General Fund and when that happened the money was used the following year to lower property taxes. She said if the special ed add-on was removed and set aside in a separate fund, it would no longer be in the General Fund and used to lower taxes; therefore, the taxpayers could see an increase in taxes.

SEN. JENKINS asked for clarification of his understanding that SB 95 would allow more spending than the General Fund 100% level. **Joan Anderson** agreed, explaining some of the special needs tuition would be outside the General Fund caps to allow the district to spend the extraordinarily high tuition rates.

SEN. EMERSON how the grants in the miscellaneous programs fund would help the special needs students. **Joan Anderson** said the grants were Title I, Safe and Drug Free, etc., which came from the federal government. **SEN. EMERSON** asked what the grant money was used for and **Ms. Anderson** said the grants were unrelated to SB 95, but the special ed add-on tuition deposited in the miscellaneous fund would be accounted for separately but would have to be spent on that special needs student.

{Tape: 1; Side: B; Approx. Time Count: 1:51 p.m.}

SEN. GAGE called attention to 20-5-323(3) and 20-5-323(2) of SB 95 and said he assumed they were calculations for tuition for regular students and tuition calculations for special ed purposes. **Eddye McClure** explained Subsection (2) addressed tuition for children with disabilities while Subsection (3) addressed tuition rates for out-of-district placements.

SEN. GAGE wondered how Title 20, Chapter 7, Part 4 compared to 20-5-323(3). **Ms. McClure** said Part 4 dealt with special education for exceptional children while Subsection (3) was more specific to SB 95.

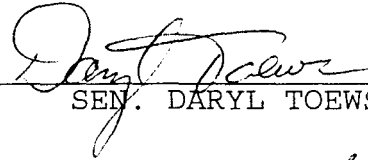
Closing by Sponsor:

SEN. MIKE HALLIGAN said he had confidence the Committee had the talent and expertise to make SB 95 work, but he was not sure **SEN. EMERSON'S** concern in dealing with all the students in an existing

district could be addressed by SB 95. He said long, hard thought had gone into structuring the bill so it would not have any fiscal impact. He reminded the Committee SB 95 looked at extreme cases, rather than the usual, and wanted to ensure the funds could be used in the existing year rather than the following year. He said the Commission's focus was to look at the entire system (corrections, mental health schools, juvenile justice, youth court act) and try to make it work better; cost was not the current consideration, but could be dealt with later.

ADJOURNMENT

Adjournment: The meeting adjourned at 1:54 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS